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“Cinderella Had A Great Meal and Rest Case Against Her Step Mother: What All Employers Must Understand About the Risk of Wage and Hour Lawsuits.”

PRESENTED BY:
 BERNADETTE M. O'BRIEN, ESQ., SPHR OF FLOYD SKEREN MANUKIAN LANGEVIN, LLP
 ALDEN PARKER, ESQ., REGIONAL PARTNER, FISHER & PHILLIPS

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INTRODUCTION

Welcome!

We will be reviewing an area in wage and hour that poses major challenges for employers on a daily basis: an employer's meal and rest period obligations.

As we will discuss in this presentation, it is important for all employers to understand that in California "minutes matter" when it comes to providing meal and rest periods.

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OVERVIEW

- PAGA claims.
- Brinker: What happened post-*Brinker* and why this case did not solve the problem.
- An overview of an employer's meal and rest period obligations.
- Other Wage & Hour areas of concern.
- Arbitration Agreements.

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WAGE & HOUR LITIGATION

- Plaintiffs' attorneys love it;
- Results in costly judgments and settlements against major employers for overtime and technical violations;
- Statute of limitations and potential back pay: 3-4 years;
- Potential Liquidated Damages: **DOUBLE** back pay;
- Automatic attorney's fees.

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WAGE & HOUR LITIGATION

“Why Should I Care?”

- Class actions equal huge penalties which reach into the seven figures for even relatively small employers. Wage and hour class actions represent the single largest group of class action cases filed.
- Attorneys’ fees can be substantial.
- You will get good at math real quick!

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WAGE & HOUR LITIGATION

Class Actions: It’s 10 minutes...How Bad Can It Be?

- Let’s do the Math-
 - Assume 1 missed 10 minute rest period of week.
 - Minimum wage employee (\$12 per hour).
 - 25 current employees, and 75 past employees during the last 4 years

\$465,600

\$62,400 for current employees, \$187,200 for past employees, Labor Code 203 penalties for former employees = \$216,000. PAGA penalties for same violations could also be added.

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PAGA CLAIMS

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WHAT ARE "PAGA" CLAIMS?

California's "Private Attorney General Action of 2004" (PAGA)

- Enacted in 2004 – Labor Code Sections 2698-2699.5;
- Deputizes employees to act as private attorney generals;
- Employees may seek civil penalties that previously were only available to the State;
- Employees may seek civil penalties on behalf of themselves and all other current and former similarly "aggrieved employees";

▪ PAGA award:

- 75 percent of any penalties go to LWDA
- 25 percent distributed among aggrieved employees
- Attorney's fees and costs

▪ A one-year statute of limitations.

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PAGA VS. CLASS ACTION

- Do not have to meet criteria required to obtain class certification;
- Cases where class certification is denied may still proceed under PAGA;
- Theory is PAGA is designed to protect the public as opposed to a means to recover damages on behalf of a class (75/25 split);
- Statute of limitations:
PAGA – one year
Class and individual claims – up to 4 years.

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WHAT CLAIMS DOES PAGA COVER?

Numerous (100+) wage and hour violations including:

- Pay stub violations
- Meal and rest periods violations
- Failure to timely pay wages on termination
- Denial of time off for jury duty, school activities, crime victims leave, etc.
- Retaliation for lawful conduct while off duty
- Failure to reimburse employee for expenses
- Failure to pay overtime
- Violating right to day of rest

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MOST COMMON PAGA CLAIMS

- Meal break violations
- Rest break violations
- Overtime violations
- Pay stub violations

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WHAT IS A "PAGA LETTER"?

- Notice sent by plaintiff's counsel to the employer and Labor and Workforce Development Agency (LWDA);
- Provides notice of intent to file a "Private Attorney General Action" (PAGA claim);
- Another avenue an employee could elect for wage and hour violations is to file his or her claim directly with the Labor Commissioner. This would not be a PAGA claim.

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PAGA NOTICE REQUIREMENTS

- Written notice from the employee, by certified mail, to LWDA and the employer;
- The notice, which is in letter format, details all labor code provisions allegedly violated;
- All PAGA claim notices must be filed online, with a copy sent by certified mail to the employer;
- All employer cure notices or other responses to a PAGA claim must be filed online, with a copy sent by certified mail to the aggrieved employee or aggrieved employee's representative;
- PAGA civil suit proceeds if LWDA:
 - Specifically declines to pursue the matter- LWDA has 60 days to consider.

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SAFE HARBOR PROVISION

In limited situations, employers may avoid a PAGA claim for certain violations if the employer cures the violation within 33 days;

- Process:
 - Employer sends notice of actions taken to cure the violation to the LWDA and the employee;
 - Employee may respond alleging the violation was not cured;
- Appeal to LWDA goes to the California Superior Court.

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EMPLOYER RESPONSE TO A "PAGA LETTER"

- Consult with legal counsel. Counsel will then determine if notice was:
 - Served properly and contained sufficiently specific facts about the alleged violations;
- If not:
 - Claim can be dismissed outright.

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WHAT IF NOTICE IS SUFFICIENT?

- Employer must raise same defenses as other civil actions under the labor code and wage orders;
- Best defense is a good offense:
 - Internal HR audits
 - Job descriptions
 - Performing specified job duties
 - Employee handbooks/wage and hour policies
 - Enforce wage and hour policies
 - Train management on wage and hour policies
 - Annual performance reviews

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PAGA SETTLEMENTS

- The court must review and approve;
- If settlement also covers other labor code violations:
 - A portion is allocated to PAGA claims;
 - It must be reasonable.

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QUESTION?

- WHY DO PAGA CLAIMS CONTINUE TO BE SUCH A PROBLEM FOR EMPLOYERS?

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ANSWER- PAGA BROADENED WAYS TO SUE EMPLOYERS

- PAGA broadened the ways that employers can be sued, because it enabled employees to sue employers for violation of statutes that previously provided no private right of action.

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ANSWER- INCREASED POTENTIAL LIABILITY FOR EMPLOYERS

- PAGA increased potential liability for employers, because employees can sue on behalf of themselves and other aggrieved employees.
- A class action plaintiff has to satisfy specific requirements to represent a class; however, it is not clear what, if anything, a PAGA plaintiff must prove to bring a representative action.
- A PAGA representative action cannot be subject to mandatory arbitration.

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ANSWER-LACK OF EMPLOYER COMPLIANCE

- Lack of employer compliance.
- Many employers do not understand their obligations under the Labor Code, particularly in regards to meal and rest periods, overtime and pay stubs.

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QUESTION?

- WHY ARE PAGA CLAIMS OFTEN SO EXPENSIVE TO DEFEND AND RESOLVE?

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ANSWER-ATTORNEY FEES/PAGA PENALTIES

For all provisions of the Labor Code, except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of PAGA, as follows: \$100 for each employee per pay period for the initial violation and \$200 for each employee per pay period for each subsequent violation. PAGA does not limit an employee's right to pursue or recover other remedies available under state or federal law, either separately or concurrently. (Lab. Code section 2699(f)(2))

- The employee who brought the action collects 25% of the total penalties and the remaining 75% are distributed to the LWDA.
- In addition, employees can recover attorneys' fees, costs, and interest as well as unpaid wages.
- The employee may collect on behalf of other aggrieved employees (current and former).

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EXAMPLE-OVERTIME CLAIM

A supervisor claims he was denied overtime. He brings a PAGA action on behalf of 50 current supervisors and an additional 5 former supervisors who worked for the employer in the past year (the statute of limitations is 1 year), alleging they were all denied overtime. The overtime statute provides a penalty for unpaid overtime for the first violation at \$50 per employee per pay period (26 in a year), and \$100 for subsequent violations.

PAGA Penalties Calculation

- \$50/penalty for first violation x 55/aggrieved former and current employees x 1/first pay period = \$2,750.
- \$100/ penalty for subsequent violations x 55/aggrieved former and current employees x 25/subsequent pay periods = \$137,500.
- \$2,750 + \$137,500 = \$140,250 in total PAGA penalties (PLUS ATTORNEY'S FEES/COSTS)

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AB 1506

PAGA related legislation (2016) that amends PAGA to provide an employer with the opportunity to cure a violation of requirement that:

- Employer provide employees with dates of pay period on paystub;
- Employer provide name and address of employer on paystub;

Paystub violations often form the basis of PAGA claims. This section can be used once in a 12 month period of time. EMPLOYERS MUST PERIODICALLY CHECK THEIR PAYSTUBS TO ENSURE COMPLIANCE. DO NOT RELY ON THE PAYROLL PROVIDER.




THE *BRINKER* CASE



BRINKER'S ARGUMENT


- An employer is only obligated to make meal breaks available and need not ensure that employees take their meal breaks; no need to “police the workplace”.
- Brinker complied with its legal obligation to make meal breaks available, many employees took those breaks, and inquiry into why particular employees did not take meal breaks raised individual questions precluding class treatment.



BOTTOM LINE: WHAT DID THE *BRINKER* COURT CONCLUDE?

- The California Supreme Court held that “an employer must relieve the employee of all duty for the designated period, but need not ensure that the employee does no work”; [Emphasis added]
- On meal period timing, the Court held that “an employer’s obligation is to provide a meal period after no more than 5 hours of work and a second meal period after no more than 10 hours of work.”

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WHAT DID THE *BRINKER* COURT SAY ABOUT REST PERIODS?

- The Court held that employers are “subject to a duty to make a good faith effort to authorize and permit rest breaks in the middle of each work period...one rest break should fall on either side of the meal break...”
- “[E]mployees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours and so on.”



WHAT HAPPENED POST-BRINKER?

- Some employers believed that they did not really need to worry about meal and rest periods as long as they were “provided”.
- Why is this a problem?

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MEAL PERIODS

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MEAL & REST PERIODS

Meal periods must be:

- Before the end of the 5th Hour of Work
- At least 30 minutes in duration
- Uninterrupted
- Second meal period (more than 10 hours)
- Off duty
 - "Off duty" generally means relieved of all duty and free to leave premises.


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MEAL & REST PERIODS

- To provide a meal period does not require that the employer ensures it is taken
 - **DO** implement a meal period policy
 - **DO NOT** impede taking of a meal period
 - **DO** have employees clock in and out
 - **DO** use preventative measures such as discipline
 - **DO** use waivers for shifts up to 6 hours


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THEY CAN WAIVE THEIR MEAL PERIOD?

- Yes.....But,
 - Must be in writing
 - Only for those regularly scheduled for less than 6 hours
 - Revocable at any time (even when on that shift)
- Can Waive 2nd Meal Period, if....
 - Valid written agreement (see above) +
 - They took a complete and compliant first meal period.
 - (Second meal period must be taken by end of 10th hour of work)

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MEAL AND REST PERIODS

Rest Periods:

All employees not covered by an exemption must be authorized and permitted to take ten (10) minutes of "net" or actual rest for every four hours (or major fraction thereof, defined as 2 hours) of work, which should be taken so far as practicable in the middle of each work period.


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MEAL AND REST PERIODS

Hours Worked	Rest Period
3.5 and up to 6 hours	1 rest period (1 x 10)
More than 6 hours and up to 10 hours	2 rest periods (2 x 10 = 20 minutes)
More than 10 hours and up to 14 hours	3 rest periods (3 x 10 = 30 minutes)
More than 14 hours and up to 18 hours	4 rest periods (4 x 10 = 40 minutes)

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MEAL AND REST PERIODS

Rest Periods:

- "Authorized and permitted"
- Must be paid time
- No waiver allowed
- Employees cannot be pressured to waive rest periods (e.g., *tight schedules*).
- Does not have to be fully "off duty"
- Can be taken away from the worksite

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MEAL AND REST PERIODS

On-Call Rest Periods—Big Time No No

- *Augustus v. ABM Security Services, Inc.*: 2016 CA Supreme Court Case
 - State law prohibits on-duty and on-call rest periods
 - Employers must relieve their employees of all duties and relinquish any control over how employees spend their break time
- “The rest period, in short, must be a period of rest.”
- **No waiver allowed**
- **\$195M Verdict for a bunch of 10 minute rest periods.**

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MEAL AND REST PERIODS

Premium due for non-compliance:

- One additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided. (*Labor Code § 226.7(b)*)
- *Also applies for other violations aside from not providing the rest period*
- *Example: one or more untimely, interrupted, or short rest periods each day*
- Could have one meal period penalty and one rest period penalty **per day!**

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PREMIUM PAY - WHEN IS THERE NO OBLIGATION TO PAY?

What happens if the employee voluntarily works through all or part of his or her meal/rest period/s or takes a delayed meal/rest period?

▪*Brinker*: “If work does continue, the employer will not be liable for premium pay. At most, it will be liable for straight pay, and then only when it “knew or reasonably should have known that the worker was working through the authorized meal period.”

▪The key question will be whether the meal or rest period/s was missed due to the employee’s voluntary action or due to the employer’s requirement (or impeding action) that caused the employee to miss the meal or rest periods.

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PREMIUM PAY - BURDEN OF PROOF

EMPLOYERS MUST CONSIDER:

- How will you show that employees have taken their meal and rest period/s, as required?
- How will you show that the employee voluntarily chose to work (as opposed to "was required" to) through all or part of a meal/rest period/s?
- What documentation/evidence do you have, especially if a class/representative action is filed?
- Consider a "premium pay" form and make sure there is a pay code in your payroll system for premium pay.

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ON-DUTY MEAL PERIOD

- An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the employer and employee an on-the-job paid meal period is agreed to. The written agreement must state that the employee may, in writing, revoke the agreement at any time.
- The test of whether the nature of the work prevents an employee from being relieved of all duty is an objective one. An employer and employee may not agree to an on-duty meal period unless, based on objective criteria, any employee would be prevented from being relieved of all duty based on the necessary job duties.
- Some examples of jobs that fit this category are a sole worker in a coffee kiosk, a sole worker in an all-night convenience store, and a security guard stationed alone at a remote location.

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IS ANYTHING WRONG WITH THIS POLICY?

"Every employee is permitted to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten minutes of rest time for every four hours worked. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half hours."

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QUESTION?

- What about a system that tracks rest breaks, so if the employer is sued for a rest break violation the employer can prove employees took rest breaks as required?
- Pros and cons.
- Question is pending before the California Supreme Court.

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RODRIQUEZ V. E.M.E., INC. (APRIL 2016)

- Rest breaks may not be combined into one 20 minute break, even if the employee consents, absent "unusual or exceptional circumstances."
- For an eight-hour shift, rest breaks should fall on either side of the meal break, absent factors rendering such scheduling "impracticable."
- "A departure from the preferred schedule is permissible only when the departure (1) will not unduly affect employee welfare and (2) is tailored to alleviate a material burden that would be imposed on the employer by implementing the preferred schedule."

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BEST PRACTICES



BEST PRACTICES FOR MEETING MEAL AND REST PERIOD OBLIGATIONS

- IMPLEMENT COMPLIANT, WRITTEN WAGE AND HOUR POLICIES;
- HAVE EMPLOYEES SIGN A SEPARATE MEAL AND REST PERIOD POLICY AND ACKNOWLEDGEMENT AT HIRE AND THEREAFTER ANNUALLY;
- IMPLEMENT A SYSTEM FOR MAKING PREMIUM PAYS WITH PAYROLL.
- TRAIN MANAGEMENT AND ALL EMPLOYEES ON THESE POLICIES; DOCUMENT YOUR TRAINING EFFORTS.
- IMPLEMENT APPROPRIATE TIME-KEEPING SYSTEMS- CONSIDER METHODS OF TRACKING REST PERIODS.

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SOME OTHER WAGE & HOUR AREAS OF CONCERN

- Overtime
- Misclassification of Employees
- Wage Statements
- Personnel Record Requests
- Deductions in Pay

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OVERTIME RATES

- Must pay time and one-half for:
 - Over 40 hours in a week
 - Over 8 hours in a day
 - First 8 hours on 7th consecutive day in work week


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OVERTIME RATES

- Double time for:
 - Over 12 hours in a day
 - Over 8 hours on 7th consecutive day in work week


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UNAUTHORIZED OVERTIME


- Required to pay
- Treat as disciplinary issue

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MISCLASSIFICATION OF EMPLOYEES

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MISCLASSIFICATION

- **DON'T** just assume that all salaried employees and commission earners are exempt from overtime and/or minimum wage.
- Paying an employee a salary does not make them exempt!
- Paying an employee a salary does not change any wage/hour law requirements that you must comply with.

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MISCLASSIFICATION

Exemptions in California:

- Governed by IWC Wage Orders
- Must meet **BOTH** (1) Salary Basis Test and (2) Duties Test
 - Salary component
 - Monthly fixed salary equivalent to no less than two times the state minimum wage (\$49,920)
 - Duties test = "**primarily engaged in**" certain duties. More than one-half of his or her time engaged in exempt work (quantitative test)
 - In California, this means **more than 50%**.

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MISCLASSIFICATION

- Only a few kinds of employees should be paid a salary.
- If the employee is not exempt from overtime (discussed in upcoming slides), it is **NOT** a good idea to pay them a salary.

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MISCLASSIFICATION

Duties Exemptions in California

- Executive
 - Monthly salary of twice state minimum wage for full-time employment;
 - Management of an enterprise or department;
 - Customarily and regularly directs the work of 2+ other employees; and
 - Who has authority to hire or fire other employees or whose suggestions to these items will be given particular weight;
 - Who customarily and regularly exercises discretion and independent judgment;

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MISCLASSIFICATION

Duties Exemptions in California


- Administrative
 - Monthly salary of twice state minimum wage for full-time employment;
 - Duties or responsibilities involve office or non-manual work directly related to management or general business operations of employer or its customers;
 - Customarily and regularly directs the work of 2+ other employees; and either:
 - Regularly and directly assists a proprietor, or an employee employed in a bona fide executive or administrative capacity; or
 - Performs only under general supervision work along specialized or technical lines requiring special training, experience, or knowledge; or
 - Who executes under only general supervision special assignments and tasks

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WAGE STATEMENTS

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WAGE STATEMENTS

- Wage Statements must contain the following information:
 - Employer's name and address
 - Employee's name and last four digits of social security number
 - Inclusive dates for which the employee is being paid
 - Gross wages earned
 - Applicable hourly rate (including OT)
 - Total hours worked
 - All deductions
 - Net wages earned
 - For piece rate: piece rate and number of pieces earned
- Practical Tip



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WAGE STATEMENTS

- **Q:** How much will it cost you if you **fail** to comply?
- **A:** More than you think.

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WAGE STATEMENTS

- Remedy for inaccurate pay stubs:
 - Knowing and intentional violations: greater of all actual damages or \$50 for the initial pay period in which the violation occurs and \$100 per employee for each violation in a subsequent pay period
 - Not to exceed aggregate penalty of \$4,000 per employee.
 - Do the math: 25 employees and 75 former employees = **\$400,000**
- Civil Penalties
 - Can be assessed even for inadvertent violations;
- Attorney's Fees;
- Rest and Meal Break Violations: Rest, recovery and meal break violations can turn into pay stub violations.

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WAGE STATEMENTS

- **DON'T** automatically assume that the payroll company you hired is issuing your wage statements correctly:
 - Payroll companies don't always comply with wage and hour laws regarding wage statements;
 - *Even standard formats that the payroll companies use can miss something basic like the total hours worked;*
 - Usually written contact that relieves them of liability-
 - May even require the employer to defend and indemnify the company if it is named in wage and hour litigation;
 - Look at your contracts!

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PERSONNEL RECORDS

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INSPECTION OF PERSONNEL RECORDS (AB 2674)

- Changed Law on 1/1/13:
- California Labor Code 1198.5
- Made significant changes to the inspection and retention of personnel records, in the following areas:
 - (1) who has the right to inspect or request copies of the entire personnel files (employee or representative);
 - (2) any deadlines for providing access to files (30 days);
 - (3) must have a form the employees can use to request to view their personnel file;
 - (3) where and how records must be made available;
 - (4) an employer's obligations to retain files (3 years after separation from employment); and
 - (5) penalties for failure to comply (\$750 + a lawsuit for injunctive relief.

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SELF-HELP REMEDIES AND DEDUCTIONS FROM PAY

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DEDUCTIONS FROM PAY

• **Limitations**

- Deductions cannot be taken when to do so would result in the employee receiving less than the applicable minimum wage for all hours worked
- Losses of employer as a result of **simple negligence**—shortages and other losses occurring without fault by employee or simple negligence inevitable and employer must bear as cost of doing business

• **Self-Help Remedies Not Allowed in California**

- California courts look closely at any attempt by employers to recover back wages earned by employees
- Any employer who resorts to self-help to take deductions does so "at its own risk."

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DEDUCTIONS FROM PAY

• **Labor Code 224 Allows for Deductions in Limited Instances:**

- When the employer is required or empowered to do so by state or federal law (taxes, SSI, etc.)
- When deduction is expressly authorized **in writing** by the employee to cover insurance premiums, hospital or medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute
- When a deduction to cover health and welfare or pension plan contributions is expressly authorized by a collective bargaining or wage agreement

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DEDUCTIONS FROM PAY-EMPLOYEE CONDUCT

- **Limited Exception to General Dislike of Deductions**
 - Dishonest Acts
 - Willful Acts
 - Gross Negligence
- **If it is determined that the employee was not guilty of a dishonest or willful act or gross negligence, employee entitled to recover not only amount withheld, but waiting time penalties as well—BEWARE!**

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DEDUCTIONS FROM PAY-UNIFORMS/BADGES

- **General Rule**
 - IWC Wage Orders, Section 7, 9(A): when uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer
 - “Uniform” includes wearing apparel and accessories of **distinctive** design or color. All white, or all black, which can be worn generally, would not be in this category.
- **Lost Uniforms?**
 - Employers may deduct from an employee’s final wages for the cost of uniform not returned. But deduction must be authorized by prior written authorization.

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ARBITRATION AGREEMENTS



SHOULD AN EMPLOYER HAVE AN ARBITRATION AGREEMENT?

Employers should discuss with their legal counsel what is appropriate for their workforce. Key points to consider are:

- Arbitration agreements can include a class waiver, which is significant (representative PAGA claims cannot be included); a recent U.S. Supreme Court decision (*Epic Systems Corp. v. Lewis*) is a major victory for employers, but in California there is pending legislation to prohibit mandatory arbitration agreements related to employment;
- Arbitration tends to be a speedier, more cost effective method of resolving disputes; should be a separate stand alone policy.



CONCLUSION



SPEAKER BIOS



BERNADETTE M. O'BRIEN, ESQ., SPHR

Bernadette M. O'Brien is a Partner at Floyd Skeren Manukian Langevin, LLP and SPHR/SHRM-SCP certified. Ms. O'Brien serves as counsel and advisor to the law firm's Human Resources Department and is Managing Attorney of the firm's Employment Law Department. Ms. O'Brien specializes in human resources consultation, compliance guidance, and policy implementation.

Ms. O'Brien defends employers in employment related disputes before the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, and the California Labor Commissioner, including claims related to discrimination, harassment, retaliation, wage and hour, and leave of absence laws. Ms. O'Brien provides HR consultation to employers, human resource administrators, and risk managers on numerous HR topics including compliance with federal, state and local employment related laws; HR policy development including employee handbooks; personnel management including hiring, performance, discipline, and termination; ensuring EEO compliance; managing disability and leave of absence policies and procedures; and, wage and hour compliance. Ms. O'Brien also conducts management and employee training sessions throughout California.

Ms. O'Brien is author of the LexisNexis publication *Labor and Employment in California: A Guide to Employment Laws, Regulations and Practices*, co-author of *California Leave Law: A Practical Guide for Employers*, and co-author of *California Unemployment Insurance and Disability Compensation Programs*. She is also editor of Floyd Skeren Manukian Langevin's employment related websites: www.employmentlawweekly.com, www.worklawreport.com, and www.floydskerenhrtraining.com, which provide the latest news and information related to employment law.

Ms. O'Brien may be contacted at (916) 838-3332; bernadette.obrien@floydskerenlaw.com.

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ALDEN J. PARKER, ESQ.

Alden Parker is the managing partner of the firm's Sacramento office and the co-chair of the Hospitality Industry Group. Alden represents employers in all facets of employment law matters. He has considerable experience defending employers in litigation involving claims under the California Fair Employment and Housing Act (FEHA), California's wage and hour laws, Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA), and the Age Discrimination in Employment Act (ADEA). Alden has also defended employers against whistleblowing and retaliation claims, including claims under the California Whistleblower Act and various provisions of the California Labor Code.

Alden has extensive experience defending employers in federal and state court, as well as in investigations by the Equal Employment Opportunity Commission (EEOC), the California Department of Fair Employment and Housing (DFEH), United States Department of Labor (DOL) and the National Labor Relations Board (NLRB).

In addition to defending his clients in litigation, Alden frequently counsels employers to assist them in avoiding litigation. He regularly advises clients on leave management issues and the interactive process for employees with disabilities, reinstatement obligations under various leave laws and wage and hour compliance. Alden has prepared employee handbooks and a variety of agreements, including independent contractor, employment, confidentiality and trade secrets agreements.

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